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GIGANEWS, INC., and  
9 LIVEWIRE SERVICES, INC.

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION

13 PERFECT 10, INC., a California  
corporation,

14 Plaintiff,

15 v.

16 GIGANEWS, INC., a Texas Corporation;  
17 LIVEWIRE SERVICES, INC., a Nevada  
corporation; and DOES 1 through 100,  
18 inclusive,

19 Defendants.

20 GIGANEWS, INC., a Texas Corporation;  
21 LIVEWIRE SERVICES, INC., a Nevada  
Corporation,

22 Counterclaimants,

23 v.

24 PERFECT 10, INC., a California  
Corporation,

25 Counterdefendant.

Case No.: 11-cv-07098-ABC (SHx)

**DISCOVERY MATTER**  
*Before Hon. Stephen J. Hillman*

**DEFENDANTS' PROPOSALS FOR  
RESOLVING DIFFERENCES ON  
DEFENDANTS' DOCUMENT  
REQUESTS NOS. 1 AND 2 TO  
PLAINTIFF, IN RESPONSE TO  
THE COURT'S INSTRUCTIONS**

Discovery Cut-off: June 30, 2014  
Pretrial Conference: January 19, 2015  
Trial Date: January 27, 2015

1           At the Court's instruction from the February 24, 2014 hearing on  
 2 Defendants' Motion to Compel Production of Documents, the parties discussed  
 3 proposals for reformulating Defendants' Requests Nos. 1 and 2.

4           We have been unable to get both parties to agree to a joint stipulation. We  
 5 traded a number of communications. Below, Defendants set forth Defendants'  
 6 proposals, and what Defendants believe are Perfect 10's latest positions. To enable  
 7 the Court to understand the parties' positions, and to guard against any suspicion  
 8 that Defendants have misrepresented Plaintiff's positions, Defendants attach a copy  
 9 of the email correspondence regarding the negotiations as Exhibit I. Defendants do  
 10 not furnish any argument with this response, but their views and concerns are  
 11 evident in the correspondence.

12           Defendants are willing to discuss these proposals and provide further  
 13 explanation or argument if the Court desires.

14           **I. REQUEST FOR PRODUCTION NO. 1**

15           **A. Original Request**

16           All communications to, by, or with all Third-Parties regarding Giganews,  
 17 Livewire, or any dispute you have with Giganews or Livewire.

18           **B. Defendants' Proposal**

19           All communications to, by, or with all Third-Parties regarding Giganews,  
 20 Livewire, or any dispute you have with Giganews or Livewire. For all individual  
21 communications over 10 MB, produce general components (such as cover letters)  
22 and all additional portions that are concerning Defendant, so long as the portions  
23 provide sufficient additional material to provide a reasonable and accurate context  
24 so that one can understand the references to Defendants. Defendants may inspect  
25 the remainder of the communication at the offices of Lynell Davis and Natalie  
26 Locke on one week's advance notice and at a reasonable time during the business  
27 day.

28

1                   **C. Defendants' Understanding of Perfect 10's Proposal**

2                   All communications by Perfect 10 with third parties regarding alleged  
 3 infringement of Perfect 10's copyrighted works by either Giganews or Livewire.  
 4 To the extent that this request requires production of over 10 MB DMCA notices  
 5 sent by Perfect 10 to third parties, Perfect 10 need only produce those portions of  
 6 such notices identifying alleged infringement by Giganews or Livewire.

7                   **II. REQUEST FOR PRODUCTION NO. 2**

8                   **A. Original Request**

9                   All communications to, by, or with any Third-Party regarding infringements  
 10 by Persons other than that Third-Party, alleged infringements by a Person other  
 11 than that Third-Party, or disputes you have or have had with a Person other than  
 12 that Third-Party.

13                   **B. Defendants' Proposal**

14                   As a substitute for providing documents, Perfect 10 shall provide to  
 15 Giganews a list of all businesses, entities, and websites that it has accused, up to the  
 16 date of its response, of infringing upon its copyrights since January 1, 2000. That  
 17 list shall include, at a minimum, all the websites to which Perfect 10 referred in  
 18 page 2, paragraph no. 1 of Perfect 10's statement for the October 6, 2008 Case  
 19 Management Conference Before Judge Matz in Perfect 10 v. Google (docket no.  
 20 364, filed Oct. 5, 2008). While Perfect 10 must provide a current list, Perfect 10  
need not include in a new list any of the businesses, entities, and websites that it  
had identified in lists shown in Exhibits A through G to this substitute request, or in  
the full 32-page document of which Exhibit H is the first page, which it had  
previously filed in other cases, so long as Perfect 10 affirms in writing in this case  
that it has accused all those businesses, entities, and websites of infringing upon its  
copyrights.<sup>1</sup>

27                   <sup>1</sup> For the Court's convenience, Exhibits A-H of the Substitute Request No. 2 are  
 28 Exhibits A-H of this document.

1                   **C. Defendants' Understanding of Perfect 10's Proposal**

2                   As a substitute for providing documents, Perfect 10 shall provide to  
3 Giganews a list of 40 of the entities to whom Perfect 10 has complained about their  
4 alleged infringement of Perfect 10's copyrighted works between January 1, 2005  
5 and the commencement of this lawsuit.

6 Dated: March 6, 2014

FENWICK & WEST, LLP

7                   By /s/ Andrew P. Bridges  
8                   Andrew P. Bridges

9                   Attorneys for Defendants  
10                  GIGANEWS, INC. and LIVEWIRE  
11                  SERVICES, INC.

12                  FENWICK & WEST LLP  
13                  ATTORNEYS AT LAW  
14                  SAN FRANCISCO